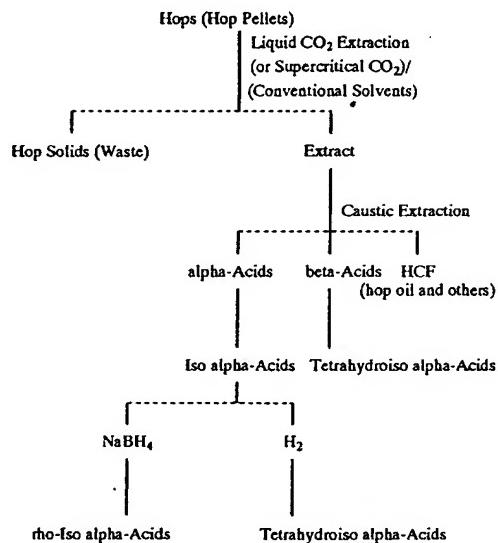


REMARKS

35 U.S.C. §103(a) Rejection

Claims 1-3, 5-7 and 17 have been rejected under 35 U.S.C § 103(a) as being unpatentable over U.S. Patent No. 4,104,409 to Vitzthum *et al.* ("Vitzthum"). Applicants respectfully submit this rejection is incorrect because Vitzthum is directed towards a completely different hop extract.

Looking first at independent claims 1 and 17, it can be seen that the claimed method uses an "extract of hop solids as the sole hopping material". Hop solids are defined as "those which remain after substantially all of the alpha acids, beta acids, and hop oils has been removed from hops" (paragraph [0031]). In short, referring to the line chart of paragraph [0034] of the present application (recreated below for your convenience) claims 1-3, 5-7 and 17 use the waste, while Vitzthum uses the extract.



In contrast, Vitzthum is directed toward a method of preparing a hop extract in which "air dried hops are extracted with extraction solvents" (Vitzthum, col. 1, lines 57-59). Therefore, the "extract of hop solids" recited in the present claims and the "hop extract" of Vitzthum are two completely different things. To substantiate an obviousness rejection, one of skill in the art would have to apply the teachings of Vitzthum (directed towards the extract) to the hop solids (the waste) as recited in the present claims. Nothing in Vitzthum teaches or suggests such a modification will be feasible, let alone successful. Therefore, Applicants respectfully submit that the Examiner is improperly partaking in hindsight reconstruction.

Further, as noted in the application as filed, "hop solids have historically been a useless by-product of the hop extraction process" (see paragraph [0014]). Applicants respectfully submit that nothing in Vitzthum teaches or suggests that an extract of hop solids, the "historically useless by-product" of hop extractions, may be utilized as a hopping material.

Therefore, Examples 1-3 of Vitzthum refer to the extracts, not the hop solids of the present claims. Accordingly, Applicants respectfully submit that Examiner's reference to these Examples as "meeting the instant claims" (Office Action, page 2) is incorrect, as these Examples refer to a different hop extract than that recited in the present claims.

Accordingly, it is believed that Vitzthum fails to support an obviousness rejection of the pending claims. Therefore, Applicants respectfully submit that independent claim 1 (and claims 2-3 and 5-7 that depend thereon) and independent claim 17 are patentable over Vitzthum.

Conclusion

In light of the above -remarks, Applicants respectfully submit that claims 1-3, 5-7 and 17 are patentable over the prior art. Favorable reconsideration is respectfully requested.

No additional fees are believed to be needed for this amendment. However, if additional fees are needed, please charge them to Deposit Account No. 17-0055.

Respectfully submitted,

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